

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JAMES R. GEORGE, individually and CHERYL GEORGE, his wife, and JAMES R. GEORGE, as Guardian ad Litem for RONALD GEORGE, a minor and NICOLE GEORGE, a minor,

Plaintiffs,

vs.

CEDAR GROVE POLICE DEPARTMENT; TOWNSHIP OF CEDAR GROVE; POLICE CHIEF, JEFFREY A. ROWE, Individually and in his official capacity; CAPTAIN FNU VANDERSTREET, Individually and in his official capacity; POLICE SERGEANT KENNETH J. CLARK, Individually and in his official capacity; POLICE LIEUTENANT, ROBERT KATTAS, Individually and in his official capacity; POLICE OFFICER, RICHARD MACALUSO, Individually and in his official capacity; POLICE OFFICER, EDWARD CONLON, JR., Individually and in his official capacity; POLICE OFFICER, MICHAEL GRASSO, Individually and in his official capacity; JOHN DOES, (1-10) and JANE DOES (1-10), (individuals whose identities are as yet unknown), individually and in their official capacities,

Defendants.

Civil Action No. 2:06-cv-6284

RETURN DATE: TBD

**CONFIDENTIAL DECLARATION OF JOSEPH A. SPINELLA IN SUPPORT OF
MOTION TO WITHDRAW AS CO-COUNSEL FOR PLAINTIFFS FOR *IN CAMERA* INSPECTION**

Joseph A. Spinella, Esq.
Co-counsel for Plaintiffs
805 Clifton Avenue
Clifton, NJ 07013
(973) 779-6605

I, JOSEPH A. SPINELLA, ESQ., declare as follows:

1. This confidential declaration is made in further support of the Motion of the undersigned to Withdraw as co-counsel for Plaintiffs, JAMES R. GEORGE, and CHERYL GEORGE, his wife, and JAMES R. GEORGE, as Guardian ad Litem for RONALD GEORGE, a minor and NICOLE GEORGE, a minor, (hereafter collectively "Plaintiffs). I am a solo practitioner and have been co-counsel, with Angelo R. Bianchi, Esq., for plaintiffs in the captioned matter since the Complaint being filed.

Except where may be otherwise noted, the statements made below are true of my own personal knowledge and if called upon to testify, I could and would competently testify thereto.

2. I respectfully request that the Court consider this confidential submission as it contains additional reasons constituting good cause under L. Civ. R. 102.1 and RPC 1.16 for my withdrawal as co- counsel.

3. The Court has recently ruled on a Motion to have Plaintiff, James R. George, submit to a mental examination by an original date of September 15, 2009, by telephone conference, extended to October 15, 2009 and again, after judicial conference to November 6, 2009.. The doctor to conduct the examination was Peter M. Crain, M.D. unless objection was made to the same by counsel for Defendants. Notwithstanding objection, James R. George was examined by Dr. Craine as ordered. This motion of defendant accompanied by another, for a Protective Order, were prompted by statements contained in the hospital records of Chilton Memorial Hospital (Behavioral Health) as a

result of treatment rendered plaintiff, James R. George, in April, 2009, excerpts of which were submitted to the Court in support of that Motion. The excerpts pointed out various threats to all attorneys and resulted in alarm. Notwithstanding and separate and apart from the statements made in the Chilton Memorial Hospital (Behavioral Health) stay, the undersigned has been personally threatened on 3 separate occasions. I attributed the threat on the first such occasion to, perhaps, stress or medication. On the second such occasion, in and around April, 2009, when I was again threatened, it prompted a call not only to Plaintiff, Cheryl George, wife of James R. George, but also to his psychiatrist, Claudio Dicovsky, M.D. I learned that Dr. Dicovsky was away and, therefore, I could not speak to him. In addition, I also called another person who has known Mr. George for quite some time, Mr. R. Alcahy. In the second instance, in April, 2009, Mr. George screamed and cursed at me and stated that he has nothing left and blaming me for delay and that if he loses his house, all hell will break loose. After reciting the above to Mr. Alcahy, his comment to me was that Mr. George is a danger to himself and others. Shortly thereafter, Mr. George was hospitalized.

Apparently since Dr. Dicovsky was unavailable, he voluntarily admitted himself to Chilton Memorial Hospital.

On September 3, 2009, I received the last threat from James R. George. During that telephone call he again stated he laid blame essentially on me for the delay of this case and all the things that were happening to him and his family. He screamed in an uncontrollable manner and used greatly offensive language before he hung up. As a result of this call, I was extremely upset and frightened. This prompted a letter which was sent

to Mr. and Mrs. George, copy attached as **EXHIBIT A**, that I could not represent them and was compelled to file a motion. I am a solo practitioner and my secretary has told me that she is also frightened of Mr. George. To be advised of a potential threat of harm of any kind is one thing but to personally receive such a threat is another. I have been in practice for over 30 years and have never once been threatened by any client in any way. To receive such a threat from a man who is physically in excess of 300 pounds and much taller than I, it must be taken seriously, as I have.

Following receipt of a letter that was sent and above referenced on September 3, 2009, my secretary received a telephone call from Cheryl George requesting that a copy of the Retainer Agreement be sent to another firm, Perconti & Cook, Wayne, New Jersey. I did so and, thereafter, attempted to call Mr. Perconti on several occasions. Finally, I did receive a telephone call from an associate, James J. Frega, Esq. and, as stated in that conversation, thereafter forwarded a form of Substitution of Attorney, executed as required, requesting that he file the same with the Court. I have not received any further correspondence from that firm, I know that Mr. Perconti attempted to contact Mr. Buglione. Consequently this motion is filed.

To continue in this case with the mindset that I have as a result of the threats imposed on me would not do justice to Mr. George or the other plaintiffs in this case.

This Confidential Declaration is being forwarded to the Court in a confidential fashion so as not to adversely affect the interests of any plaintiff and accompanied by a motion to have the same filed under seal.

My co-counsel, Angelo R. Bianchi, Esq., is fully apprised of this decision and Motion.

I respectfully ask your Honor to consider the above and my position. There is no trial date fixed in this case and in the interest of fairness and justice, I would suggest that Plaintiffs be given a period of sixty (60) days within which to find substituted co-counsel. By letter dated September 10, 2009, copy attached as **EXHIBIT B**, I have notified the firm of Perconti & Cook of the examination by Dr. Crain, , furnishing a copy of the Court's Order, as well, together with the Curriculum Vitae of Dr. Crain. Prior to said date, I furnished that firm a detailed outline of the case. Notwithstanding, as above stated, since I have not received any notification from that firm regarding Substitution, this action is being taken.

DATED: November 16, 2009

Respectfully submitted,

/s/ Joseph A. Spinella

JOSEPH A. SPINELLA

EXHIBIT “A”

LAW OFFICES OF
JOSEPH A. SPINELLA
805 Clifton Avenue
Clifton, New Jersey 07013

Joseph A. Spinella
Certified Civil Trial Attorney
R. 1:40 Court Approved Mediator

(973) 779-6605
(973) 779-5996 (fax)
jaspinella@optonline.net

September 3, 2009

Certified Mail, RRR and first class mail

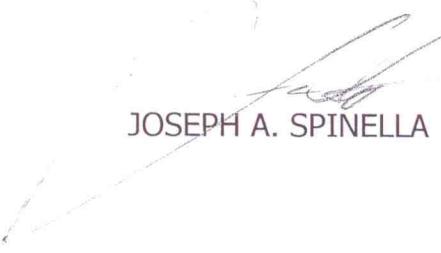
Mr. and Mrs. James R. George
15 Douglas Drive
Little Falls, NJ 07024

RE: JAMES R. GEORGE, et al. vs. CEDAR GROVE POLICE DEPARTMENT, et al.

Dear Mr. and Mrs. George:

Today I received a telephone call from James George in which he threatened me, essentially laid blame on me for certain things that are happening and the delay of this case. He uncontrollably screamed at me and said certain things that I will not repeat in this letter. By virtue of the same and the fact that he has threatened me at least twice in the past, both in writing and verbally, I am compelled to make a motion to be relieved as counsel. If you have another attorney(s) in mind that you feel will take over this case, I will be cooperative in releasing any and all documents in my possession.

Very truly yours,


JOSEPH A. SPINELLA

JAS:rn
Enclosures

cc: Angelo R. Bianchi, Esq., 973-680-9909

SENDER COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <i>Vincent George</i></p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by / Printed Name) <i>Vincent George</i></p> <p>C. Date of Delivery <i>9/14/09</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to:		<p>Mr. and Mrs. James R. George 15 Douglas Drive Little Falls, NJ 07024</p>	
2. Article Number (Transfer from service label)		7008 0150 0000 0762 4785	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	

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Total Postage & Fees	\$ 5.54
Sent To Mr. and Mrs. James R. George 15 Douglas Drive Little Falls, NJ 07024	

See Reverse for Instructions

PS Form 3800, August 2006

EXHIBIT “B”

LAW OFFICES OF
JOSEPH A. SPINELLA
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Joseph A. Spinella
Certified Civil Trial Attorney
R. 1:40 Court Approved Mediator

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September 10, 2009

Via fax: 973-427-0166

Joseph C. Perconti, Esq.
Perconti & Cook
886 Belmont Avenue
No. Haledon, NJ 07508

RE: JAMES R. GEORGE, et al. vs. CEDAR GROVE POLICE DEPARTMENT, et al.
Civil Action No.: 06-cv-6284

Dear Mr. Perconti:

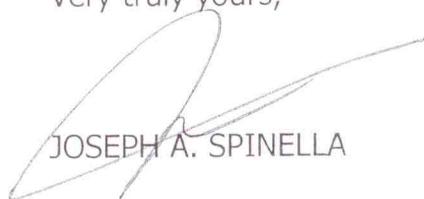
Yesterday we received a telephone call from Cheryl George to the effect that your firm would now represent plaintiffs in the above matter. In this regard, I was also requested to provide a copy of the Retainer Agreement, which is enclosed.

As I believe I relayed to you, a Motion was filed by the firm of DeYoe, Heissenbuttel & Buglione, LLC, attorneys representing defendant, Macaluso, to have plaintiff, James R. George, submit to a mental examination. By Order of the Court, copy enclosed, dated August 26, 2009 and filed on August 27, 2009, the date fixed by the Court, at that time, was September 15, 2009. Owing to the activities surrounding plaintiff, at this time, and specifically the closing of the Little Falls home, scheduled for the same date, September 15, 2009, and my belief that the plaintiffs must vacate the premises by the 21st of September, I contacted counsel for defendants and subsequently the Court with a request to extend the time for the court ordered examination. Yesterday, a telephone conference took place among all counsel, the result of which was that the time for the mental examination, as ordered by the Court, was extended for 30 days to October 15, 2009. The Court further directed that my selected psychiatrist who I briefly personally spoke with, Peter Michael Crain, M.D. and who enjoys a good reputation, was also the psychiatrist ordered by the Court to conduct the examination, unless opposition was received from the defendants. I was directed to furnish a curriculum vitae for Dr. Crain to counsel, a copy of which I now enclose for you as well.

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September 10, 2009

As I further stated to Mr. and Mrs. George, in a letter to them, I will be most cooperative in furnishing you all documentation in this case as well as information that you require to make the transition as easy as possible.

Very truly yours,



A handwritten signature in black ink, appearing to read "JOSEPH A. SPINELLA".

JAS:rn
Enclosures

cc: Mr. and Mrs. James R. George, Fax: 973-256-0254
Angelo R. Bianchi, Esq., Fax: 973-680-9909